

Message Text

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ORIGIN EUR-12

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OES/OFA/FA-AMB. RIDGWAY

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FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA IMMEDIATE

C O N F I D E N T I A L STATE 004237

FOR THE AMBASSADOR

E.O. 11652: GDS

TAGS: SENV, EFIS, CA

SUBJECT: U.S.-CANADIAN MARITIME NEGOTIATIONS

REF: OTTAWA 056

1. DEPARTMENT APPRECIATES REFTEL WHICH WAS MOST HELPFUL.
2. IN MEETING WITH JAMIESON THIS WEEKEND YOU ARE REQUESTED TO LEAVE AIDE-MEMOIRE SET OUT BELOW WHICH WE BELIEVE FULLY ADDRESSES RECOMMENDATION YOU MADE IN PARA 16(B) OF REFTEL.
3. IN ADDITION, YOU SHOULD MAKE CLEAR THAT THE U.S. OBJEC-
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TIVE IN THESE FISHERIES TALKS IS TO GET OVER THE SHORT-TERM PROBLEM. YOU MAY SAY IN THIS CONNECTION THAT WE SEE NO LIKELIHOOD THAT AN INTERIM FISHERIES ARRANGEMENT COULD BE EXTENDED BEYOND DECEMBER 1977. YOU ARE ALSO AUTHORIZED TO CONFIRM THAT THE U.S. IS PREPARED TO PROCEED PROMPTLY TOWARD A PERMANENT REGIME FOR THE GULF OF MAINE AND ELSEWHERE. WE BELIEVE IT WOULD BE IMPRUDENT TO PROMISE IMMEDIATE RESUMP-

TION OF NEGOTIATIONS ON LONG-TERM FISHERIES ARRANGEMENTS AS YOU SUGGEST IN VIEW OF THE NEGATIVE, BUT CONFLICTING, REACTIONS WE HAVE HAD TO THE PROPOSALS FOR LONG-TERM ARRANGEMENTS WE PREVIOUSLY TABLED FROM THE CANADIAN SIDE AND FROM THE U.S. INDUSTRY, AND FROM CONGRESS. WE CAN RETURN TO NEGOTIATIONS ON THE BASIS OF THESE DOCUMENTS BUT WILL NEED A PERIOD OF TIME FOLLOWING INTERIM ARRANGEMENTS TO BUILD SUPPORT FOR USG POSITION.

4. IN ADDITION, YOU SHOULD REITERATE U.S. INTEREST IN PROMPT RESUMPTION OF BOUNDARY NEGOTIATIONS. WE WOULD HOPE CANADA DOES NOT EXPECT TO DEFER BOUNDARY TALKS WHILE AWAITING CONCLUSION OF A SHORT-TERM FISHERIES ARRANGEMENT. THEREFORE, WE SUGGEST THAT BOUNDARY TALKS RESUME ASAP, WITH A VIEW TO NEGOTIATING COMPROMISE LINES IN DISPUTED AREAS. IF NO SETTLEMENT SEEMS POSSIBLE ON THE BASIS OF THE NEXT ROUND OF TALKS, THEN WE RECOMMEND THAT THE BOUNDARY QUESTION BE SUBMITTED TO THIRD-PARTY ADJUDICATION.

5. BEGIN TEXT OF AIDE-MEMOIRE:

THE EMBASSY OF THE U.S. REFERS TO THE U.S.-CANADA GOVERNMENT-TO-GOVERNMENT FISHERIES CONSULTATIONS HELD IN OTTAWA, NOVEMBER 17-19, 1976, THE CANADIAN EMBASSY'S AIDE-

MEMOIRE OF DECEMBER 22, 1976, THE DEPARTMENT OF STATE'S AIDE-MEMOIRE OF DECEMBER 30, 1976, AND THE U.S.-CANADA FISHERIES NEGOTIATIONS ON A SHORT-TERM AGREEMENT SCHEDULED FOR JANUARY 17-31, 1977, IN LOS ANGELES.
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THE USG BELIEVES THE TASK NOW BEFORE NEGOTIATORS OF OUR TWO GOVERNMENTS IS TO DEFINE APPROPRIATE SHORT-TERM ARRANGEMENTS TO BE IN PLACE BY MARCH 1, 1977, SO THAT NEGOTIATIONS CAN BE RESUMED ON LONG-TERM FISHERIES ARRANGEMENTS TO BE EFFECTIVE AFTER JANUARY 1, 1978. THE CANADIAN GOVERNMENT HAS TAKEN THE VIEW THAT SUCH SHORT-TERM ARRANGEMENTS MUST INCLUDE PROVISION FOR JOINT U.S.-CANADIAN MANAGEMENT OF FISHERIES STOCKS ON THE WHOLE OF GEORGES BANK, THUS PRESERVING AN OPTION TO CLAIM JURISDICTION IN AREAS BEYOND THOSE DEFINED AND PUBLISHED PREVIOUSLY.

THE UNITED STATES GOVERNMENT HAS REJECTED THE CANADIAN GOVERNMENT'S POSITION MAKING CLEAR THAT IT IS NOT PREPARED TO ENTER INTO SHORT-TERM FISHERIES ARRANGEMENTS THAT IMPLY JOINT MANAGEMENT SOUTH OF THE EQUIDISTANCE LINE IN THE GULF OF MAINE. THE USG CONSIDERS THAT A DISTINCTION MUST BE MADE BETWEEN AREAS OF OVERLAPPING CLAIMS, WHICH LIE

INSIDE LINES PREVIOUSLY PUBLISHED, AND AREAS BEYOND THOSE LINES. THE GOVERNMENT OF CANADA'S CONTINUED ADHERENCE TO A POSITION INSISTING ON JOINT MANAGEMENT IN AREAS BEYOND THOSE LINES RAISES A QUESTION ABOUT THE POSITION CANADA INTENDS TO TAKE WHEN FISHERY NEGOTIATIONS OPEN ON JANUARY 17. THE UNITED STATES GOVERNMENT'S VIEW THAT THE ELEMENTS OF A SHORT-TERM ARRANGEMENT SHOULD BE CAPABLE

OF QUICK DEFINITION PROCEEDED FROM THE ASSUMPTION THAT THE GOVERNMENT OF CANADA WOULD RECOGNIZE U.S. JURISDICTION INCLUDING MANAGEMENT AUTHORITY SOUTH OF THE EQUIDISTANCE LINE.

THE USG IS OF THE VIEW THAT ELEMENTS OF A SHORT-TERM ARRANGEMENT SHOULD INCLUDE: AN EXPIRATION DATE OF DECEMBER 31, 1977; NO THIRD-PARTY FISHING IN THE AREAS BETWEEN OUR TWO LINES; MUTUAL FORBEARANCE IN THE AREAS
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BETWEEN OUR TWO LINES VIS-A-VIS FISHERMEN OF OUR TWO COUNTRIES; ACCESS ON A RECIPROCAL BASIS FOR FISHERMEN OF OUR TWO COUNTRIES TO THE RESPECTIVE FISHERY ZONES OF EACH THAT LIE BEYOND THE PUBLISHED LINES; ARRANGEMENTS THAT WOULD EASE, ON A RECIPROCAL BASIS THE ADMINISTRATIVE BURDENS WHICH OTHERWISE WOULD APPLY; ENFORCEMENT BY EACH COUNTRY IN ITS OWN FISHERY ZONE OUTSIDE OF THE AREAS BETWEEN OUR TWO LINES; AND IN THE AREAS BETWEEN OUR TWO LINES FLAG STATE ENFORCEMENT AGAINST NATIONALS OF OUR TWO COUNTRIES AND ENFORCEMENT BY EITHER GOVERNMENT AGAINST THIRD FLAG VESSELS. SUCH SHORT-TERM ARRANGEMENTS OBVIOUSLY MUST PROVIDE FOR RECIPROCAL ACCESS TO FISHERIES ON TERMS WHICH DO NOT PREJUDICE PUBLISHED CLAIMS OR THE OUTCOME OF SUBSEQUENT NEGOTIATIONS FOR LONG-TERM ARRANGEMENTS.

IF IT IS NOT POSSIBLE TO REACH AGREEMENT ON ARRANGEMENTS WHICH WOULD PROVIDE FOR RECIPROCAL ACCESS TO FISHERIES ON TERMS WHICH DO NOT PREJUDICE PUBLISHED CLAIMS, NOR PREJUDICE THE OUTCOME OF SUBSEQUENT NEGOTIATIONS FOR LONG-TERM ARRANGEMENTS, A FURTHER QUESTION ARISES AS TO THE BASIS ON WHICH THE TWO GOVERNMENTS SHOULD PROCEED AFTER MARCH 1, 1977. IT WOULD APPEAR THAT IF THE TWO GOVERNMENTS ARE NOT ABLE TO REACH AGREEMENT ON ARRANGEMENTS WHICH REFLECT THE SPECIAL CHARACTER OF THE RELATIONSHIP BETWEEN OUR FISHERMEN, THEY SHOULD AT LEAST BE PREPARED TO OFFER THE SAME TERMS AS HAVE BEEN OFFERED THIRD PARTIES. FOR ITS PART, ABSENT A RECIPROCAL AGREEMENT, THE UNITED STATES GOVERNMENT IS PREPARED TO NEGOTIATE A GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH CANADA CONCERNING CANADIAN FISHING IN THE UNITED STATES FISHERY CONSERVATION ZONE AFTER

MARCH 1, 1977. IN ORDER TO BECOME EFFECTIVE ON OR ABOUT MARCH 1, 1977 SUCH AN AGREEMENT SHOULD BE CONCLUDED AS EXPEDITIOUSLY AS POSSIBLE. THE NECESSITY FOR SUCH AN AGREEMENT, OF COURSE, IS A JUDGMENT FOR THE CANADIAN GOVERNMENT TO MAKE. IN THAT INSTANCE, THE UNITED STATES
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GOVERNMENT ALSO WOULD WISH TO NEGOTIATE FOR ACCESS, ON TERMS NO MORE RESTRICTIVE, TO FISHERIES WITHIN THE CANADIAN FISHERIES ZONE.

THE UNITED STATES GOVERNMENT IS PREPARED TO PROCEED ON
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EITHER BASIS. IT WOULD BE OF ASSISTANCE IN PREPARING FOR THE JANUARY 17 NEGOTIATIONS, HOWEVER, TO KNOW BEFOREHAND HOW THE CANADIAN GOVERNMENT INTENDS TO PROCEED.: END TEXT.

6. FYI -- (A) YOU INDICATE THAT PART OF THE PROBLEM WITH CANADIANS MAY HAVE BEEN IMPRECISION ON LINKAGES BETWEEN LONG-TERM FISHERIES AGREEMENT AND BOUNDARY AGREEMENT, AND

SHORT-TERM FISHERIES AGREEMENT AND BOUNDARY AGREEMENT. YOU SHOULD BE AWARE THAT WHETHER A LINKAGE EXISTS BETWEEN SHORT-TERM FISHERIES AGREEMENT AND BOUNDARY AGREEMENT IS AT ISSUE HERE IN DEPARTMENT WHICH YOUR INSTRUCTIONS IN PARAS 3 AND 4 DO NOT RESOLVE. IN ALL LIKELIHOOD, IT WILL NOT BE RESOLVED UNTIL AFTER CONCLUSION OF LOS ANGELES NEGOTIATIONS.

(B) IT IS NOT ACCURATE THAT GOC, AS STATED PARA 11(A), HAS TAKEN "POSITION AGAINST ADJUDICATION". GOC HAS NOT MADE COMMITMENT TO ADJUDICATE BUT HAS IN OUR VIEW BEEN EDGING CLOSER TO ADJUDICATION UNDER USG PRESSURE. WE WISH TO MAINTAIN THIS MOMENTUM.

(C) WE ARE SURE YOU ARE AWARE AS DISCUSSED PARAS 8 AND 9 OF REFTEL THAT WHEREAS LONG-TERM FISHERIES AGREEMENT COULD INCLUDE SOME "JOINT ARRANGEMENTS", U.S. PROPOSAL ALREADY SUBMITTED AND OUR CONTINUING POSITION HAS MADE CLEAR THAT "JOINT MANAGEMENT" CANNOT BE BASIS FOR LONG-TERM AGREEMENT. REGIONAL COUNCIL STRUCTURE MAKES THIS VERY DIFFICULT AND WE MUST BE CAREFUL NOT TO IMPLY OTHERWISE. -- END FYI.

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